

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DIANE P. RAY,

Plaintiff,

vs.

Civil Action No.

PRUDENTIAL INSURANCE
COMPANY OF AMERICA,

Defendant.

COMPLAINT

AND NOW, comes the Plaintiff, DIANE P. RAY, by and through her attorney, Brian Patrick Bronson, Esquire, and the law firm of QuatriniRafferty, P.C., and files this Complaint in Civil Action in the Federal District Court for the Western District of Pennsylvania, stating as follows:

INTRODUCTION

NATURE OF THIS ACTION

1. This action is filed pursuant to the Employment Retirement Income Security Act of 1974, 29 U.S.C. §1001 et seq. (hereinafter referred to as "ERISA") and the Declaratory Judgment Act, 28 U.S.C. §§2201, 2202. Mrs. Diane P. Ray (hereinafter Plaintiff) is a participant in an employee welfare benefit plan (hereinafter referred to as "The Plan") which is administered pursuant to an insurance policy issued by Prudential Insurance Company of America. The Plan is governed by ERISA. Plaintiff is a beneficiary

under the Plan. This Complaint challenges the Plan's unlawful practice of failing to provide Plaintiff with the timely payment of Long-Term Disability benefits under the Plan. Specifically, Plaintiff is filing this action to enforce her rights under the Plan and for attorney fees, interest and costs as provided by ERISA.

JURISDICTION AND VENUE

2. This Court has Original Jurisdiction to hear this complaint and to adjudicate the claims herein pursuant to 28 U.S.C. §1331 and 29 U.S.C. §1132.

3. Venue is proper in this Court, as the Plan was administered in the Western District of Pennsylvania.

PARTIES

4. The Plaintiff, Diane P. Ray resides at 910 Adams Avenue, Jeannette, Pennsylvania 15644.

5. The Defendant, Prudential Insurance Company of America, is the Claims Administrator of Long Term Disability claims and is located at 751 Broad Street, Newark, New Jersey 07102.

6. Defendants administered employee benefits, mainly Long Term Disability benefits, under the Plan in accordance with the insurance policy issued to the Plan by the Claims Administrator.

STATEMENT OF FACTS

7. The Plaintiff was employed by Prudential Insurance Company of America as a Operations/Control Associate.

8. The Plaintiff stopped working for her employer, Prudential Insurance Company of America, on or about September 23, 2015, due to Depression, Fibromyalgia, Chronic Pain, Positive ANA Testing, Arthralgias and Generalized Osteoarthritis.

9. The Plaintiff filed a claim for Long Term Disability benefits on or about March 23, 2016.

9. By letter dated May 16, 2016, the Defendant informed the Plaintiff that her claim for Long Term Disability benefits was denied.

10. The Plaintiff filed a timely and responsive appeal to the denial of her claim, which was acknowledged by the Defendant by letter dated July 27, 2016.

11. On or about September 27, 2016, the Defendant issued a letter again denying the Plaintiff's claim for Long Term Disability benefits.

12. The Plaintiff filed an appeal to the denial of her claim dated March 3, 2017.

13. By letter dated May 12, 2017, the Defendant affirmed their decision to deny the Plaintiff's claim on appeal. With this denial, Plaintiff exhausted her administrative remedies under the Plan.

14. The Plaintiff is currently receiving Social Security Disability benefits. The Social Security Administration determined that she is incapable of working any substantial, gainful employment under their rules. The Plaintiff was found disabled by the Social Security Administration as of September 23, 2015, her last day of work.

CAUSE OF ACTION

Employment Retirement Income Security Act of 1974, 29 U.S.C. §1001 et seq.

15. Paragraphs 1 through 13 are incorporated herein as if set forth at length.

16. Plaintiff has exhausted all administrative remedies and mandatory appeals as required by the Plan and ERISA 29 U.S.C. §1001 et seq.

17. At all times relevant to this action, the Plaintiff has been unable to perform the material duties of any gainful occupation due to the diagnoses and symptoms related to Depression, Fibromyalgia, Chronic Pain, Positive ANA Testing, Arthralgias and Generalized Osteoarthritis.

18. The Defendant failed to properly consider the Plaintiff's statements under Oath taken at the March 6 2017 interview to which they were invited but failed to appear.

19. The Defendant ignored pertinent medical evidence and failed to evaluate all of the evidence of record including the medical of Plaintiff's treating physicians.

20. The Defendant did not conduct a full and fair review of the claim as required by ERISA.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs respectfully prays that the Court issue an Order:

- (1) Awarding, declaring or otherwise providing Plaintiff all relief to which Plaintiff is entitled under ERISA Section 502 Paragraph (a) 29 U.S.C. Section 1132(a);
- (2) Awarding pre and post judgment interests;
- (3) Awarding Plaintiff the costs of this action and reasonable attorneys fees;
- (4) Awarding such other relief as may be just and reasonable.

/s/ Brian Patrick Bronson, Esquire
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Dated: December 13, 2017